

# Show Cause Hearing Guidelines

## Introduction

This document provides an overview of the Commercial Vehicle Safety and Enforcement Branch's show cause hearing process for National Safety Code carriers. It is intended to assist you in understanding your rights and obligations in applying for a hearing and in making a show cause submission.

The information in this document may be amended from time to time.

## Receiving a Notice of Cancellation, Restriction or Prohibition

Part 2.2 of the Motor Vehicle Act authorizes the Director of Commercial Vehicle Safety, or his or her delegate, (the "Director") to:

- ★ cancel a National Safety Code Safety Certificate;
- ★ direct the Insurance Corporation of British Columbia to cancel a carrier's vehicle license(s) or permit(s);
- ★ restrict or prohibit a carrier's use of vehicles.

The Director will notify you, in writing, of the action taken and the reasons for it. You then have the right to show cause why the action should not take effect.

The date that you are served with the Notice of Cancellation, Restriction or Prohibition (the "Notification Date") is used to calculate the effective date of the action and the timelines associated with the show cause process. The action will take effect on the 30th business day following the Notification Date, or 10 business days from the date of receiving the Show Cause hearing decision, whichever is the latter, unless it is rescinded by the Director.

Note: All timelines for this process are calculated in "business days". A business day is any day other than a Saturday, a Sunday or a holiday (as defined in the Interpretation Act).

## Applying to Show Cause

If you wish to have a show cause hearing, you must complete a **Notice of Intention to Show Cause form** and deliver it to the Director within **5 business days** of the Notification Date.

The form must be accompanied by the prescribed \$200.00 fee.

You must be an authorized representative of a corporation to apply on its behalf.

It is your responsibility to ensure that the contact information provided on the Notice of Intention to Show Cause form is kept up to date. It will be assumed that you have received all communications sent to the address provided on the form.

## Making a Submission

A show cause hearing will normally be conducted on the basis of written submissions.

You have **15 business days** from the Notification Date to provide the Director with written submissions and evidence to demonstrate why the action should not take effect. If you wish to have a lawyer assist in the preparation of the submission, it is your responsibility to ensure that the lawyer is able to meet the timelines for this process.

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# Show Cause Hearing Guidelines cont'd

To provide the Director with the information required to make a decision, you are advised to:

- ★ Respond directly to the issues identified in the Notice and described in the evidentiary package;
- ★ Reference specific pieces of information or evidence contained in the package provided by the Director (use page numbers); and
- ★ Provide evidence to support all statements.

**PLEASE NOTE:** A proposal or action plan explaining how you intend to comply with regulatory requirements will not be considered by the Director when deciding whether the cancellation should take effect.

You should provide factual information in the form of affidavit evidence whenever possible. Affidavits should generally contain direct evidence only and should not include facts sworn on information and belief.

Unsworn evidence and sworn evidence provided on information and belief is admissible, but will be weighed accordingly by the Adjudicator where that evidence relates to facts in dispute.

It is your responsibility to ensure that the submission is clear and complete. The Director will not contact you for clarification or additional information.

If you fail to provide a written submission to the Director, no show cause hearing will occur and the action will take effect on the 30th business day following the Notification Date.

## The Director's Decision

The Director will consider the evidence and arguments presented and determine, on the balance of probabilities, whether the action should take effect.

Whenever possible, the Director will issue a decision within 25 business days of the Notification Date. Reasons for the decision will be provided at the time of decision or within a reasonable time following the decision.

Application fees will be refunded if the Director finds in your favour.

## Contact Information

### Mailing Address:

Director of Commercial Vehicle Safety and Enforcement  
Ministry of Transportation and Infrastructure  
PO Box 9250 Stn Prov Govt  
Victoria BC V8W 9J2

**Phone: (250) 952-0576**

### Street Address:

Director of Commercial Vehicle Safety and Enforcement  
Ministry of Transportation  
3A – 940 Blanshard Street  
Victoria BC V8W 3E6

**Fax: (250) 952-0578**

**Statement of Limitations:** Information in this brochure is effective February 1, 2010. So that this information is easy to understand, the language is not the same as the legal and technical terminology of the applicable Acts or Regulations. Any contradiction, dispute or difference between the contents of this fact sheet and the legislation shall be resolved only by reference to the appropriate Acts or Regulations.